IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

WP(C).No. 9861 of 2005(Y)

PETITIONER:

S. UDAYAKUMAR, AGED 35 YEARS,
S/O. LATE SUNDASRA PANICKER,
UDAYA BHAVAN, KARAKKONAM, NEYYATTINKARA,
THIRUVANANTHAPURAM.

BY ADV. SRI.C.C.THOMAS

RESPONDENTS:
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1. THE DISTRICT COCLLECTOR,
THIRUVANANTHAPURAM.

2. THE COMMISSIONER OF LAND REVENUE,
PUBLIC OFFICE BUILDING, THIRUVANANTHAPURAM.

BY G.P. SMT. SMITHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17/12/2007 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 PHOTOCOPY OF THE ORDER NO. D.DIS. 5622/2002/LR.B4 DATED 28.6.2002 PASSED BY THE 2ND RESPONDENT.

EXT.P2 PHOTOCOPY OF THE LETTER DATED 23.10.2002 SENT BY THE PETITIONER TO THE FIRST RESPONDENT.

EXT.P3 PHOTOCOPY OF THE LETTER DATED 19.12.2002 SENT BY THE PETITIONER TO THE FIRST RESPONDENT.

EXT.P4 PHOTOCOPY OF THE REVISION PETITION DATED 25.2.2005 FILED BEFORE THE 2ND RESPONDENT BY THE PETITIONER.

EXT.P5 PHOTOCOPY OF THE STAY PETITION DATED 25.2.2005 FILED BEFORE THE 2ND RESPONDENT BY THE PETITIONER.

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N. RAMACHANDRAN NAIR, J.

W.P.C. NO. 9861 OF 2005

Dated this the 17th day of December, 2007

JUDGMENT

Writ Petition was filed apprehending arrest of the petitioner pursuant to District Collector's direction issued under Section 65 of the RR Act. It is seen that petitioner is admittedly in arrears of huge amount of kist due to the Government. Besides this, petitioner is in arrears of toddy workers welfare fund contribution. Section 65 proceedings once initiated were challenged by the petitioner before the Land Revenue commissioner in revision which led to Ext.P1. It is seen from Ext.P1 that the Land Revenue Commissioner directed the District Collector to conduct enquiry and pass fresh orders. Government Pleader submitted that the District Collector though not issued a formal order conducted enquiry and only on being satisfied that the petitioner has means, he ordered petitioner's arrest. Counsel for the petitioner rightly pointed out that the District Collector cannot issue warrant without conducting enquiry and without a proper adjudication order issued pursuant to Ext.P1 order. If on enquiry petitioner is found to

have concealed or benami wealth, then the Collector will be perfectly justified in ordering his arrest . First respondent is directed to consider the material collected by him and if required conduct discreet enquiries through any Intelligence Agency about the petitioner's life style, assets held by his close relatives, source of the same and issue orders within a period of six weeks from today. Petitioner can be arrested only after issuing proper adjudication order and after serving the same on the petitioner. If the Collector finds on enquiry that the petitioner has transferred any asset hit by Section 44 of the RR Act, then it will be open to the District Collector to declare such transaction as illegal and attach and sell that property besides proceeding for arrest of the petitioner. Interim order of stay granted by this Court will continue for another six weeks from now and thereafter arrest will be made based on orders of the Collector. Petitioner will produce a copy of this judgment before the District Collector for compliance.

W.P. is disposed of as above.

(C.N. RAMACHANDRAN NAIR)
Judge